



CITY OF SALEM PLANNING BOARD

2016 SEP 29 P 2: 48

Form C – Definitive Subdivision Decision
14 Bertuccio Avenue (Map 24, Lot 105)
September 15, 2016

FILE #
CITY CLERK, SALEM, MASS.

Nathan Jacobson
C/o Benjamin Osgood
13 Branch Street, Suite 111
Methuen, MA 01844

RE: Decision of the 14 Bertuccio Avenue Definitive Subdivision – Form C

On April 7, 2016, the Salem Planning Board opened a public hearing for a proposal submitted by Nathan Jacobson (hereafter referred to as “applicant”) to allow the construction of a roadway and associated utilities to serve seven (7) residential lots, and a Stormwater Management Permit in accordance Sec. 37 of the Salem Code of Ordinances to allow for activity that results in a land disturbance greater than one acre of land within the City of Salem. In the course of review, the plans evolved such that the subdivision was reduced to six (6) residential lots. The public hearing was continued on April 7, 2016; April 21, 2016; May 5, 2016; May 19, 2016; June 2, 2016; June 16, 2016; July 7, 2016; July 21, 2016; September 1, 2016.

At the September 1, 2016 meeting, the applicant requested a continuation and an extension to allow the Board to take final action after the 135 day time period.

At the regularly scheduled Planning Board meeting on September 15, 2016, the Planning Board closed the public hearing and voted on the petition at the request of the petitioner.

The rules and regulations governing the Subdivision of Land in Salem, Massachusetts were enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the city and were put into effect to regulate the layout and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas.

The Salem Planning Board, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petitions, including the application narrative and plans, and the Petitioner’s presentation and public testimony, makes the following **findings**:

1. The definitive subdivision plans do not conform to Salem’s Subdivision Regulations as waivers of the subdivision plans were requested.
2. The Salem Planning Board did not receive sufficient information to ensure safe construction of all ways and infrastructure.

3. While the applicant provided information on the industry standards and general procedures of blasting, the Planning Board found that the applicant did not provide specific information requested on the unique geological features of the site. Subsoil investigations were not performed to verify the underlying soil strata (Environmental and Community Impact Statement dated March, 2016). The Board requested additional site specific environmental and geological information and a geotechnical peer review. The Board found that subsoil investigations of the unique geological features of the site were necessary to determine whether the proposed blasting of the ledge could be done without the detriment to public safety and welfare.

The petitioner also requested the following waivers:

- i. A waiver request from Section IV.A.1.f. to allow the centerline radius of 126 feet and 134 feet respectively, which is less than the 230 feet required.
- ii. A waiver request from Section IV.A.4.a to allow a dead end street 950 feet long, as measured from the Bertuccio Avenue and Francis Road intersection to the end of the cul-de-sac, which is longer than the 500 foot maximum.
- iii. A waiver request from Section IV. Right-of-Way Improvements Policy to allow:
 - a. A plan without street trees at the entrance into the subdivision for the first 60' feet, where 3½ in. caliper trees are required 30 ft. on center.
- iv. A waiver request from Section IV.A.2.a to allow:
 - a. A sidewalk width of four (4) feet wide rather than the required five (5) foot width where there are proposed cutouts for tree locations.
 - b. A street width of thirty-nine (39) feet at the entrance, where the existing street width of forty (40) feet is required.

Chapter 41, Section 81R provides that the Planning Board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations. The Board found that the petition did not demonstrate that the approval of the requested waivers serve a better public interest than the Subdivision Control requirements. Specifically, the petitioner requested a street that is narrower than required, a dead-end road almost twice the maximum length, the elimination of street trees at the entrance into the subdivision and a sidewalk width that does not comply with ADA standards. While the petition proposed to provide benches and a seating area in the subdivision, the Board finds that this public benefit is not directly related to the impacts of the waivers requested.

The Planning Board voted none (0) to approve and seven (7) (Ben Anderson (Chair), Matt Veno, Bill Grisct, Noah Koretz, Helen Sides, Dale Yale, Carole Hamilton) opposed, to approve the request for an endorsement of a Form C Subdivision Plan and Stormwater Management Special Permit.

The Form C Definitive Subdivision and Stormwater Management Special Permit are denied.

This endorsement shall not take effect until a copy of the decision bearing certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that is such appeal has been file, and it has been dismissed or denied, is recording in the Essex South Registry of Deeds and is indexed under the name of the owner of record or is recorded on the owner's Certificate of Title. The fee for recording or registering shall be paid by the owner or applicant.

I hereby certify that a copy of this decision and plans are on file with the City Clerk and a copy is on file with the Planning Board.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben J. Anderson", with a stylized flourish at the end.

Ben J. Anderson, Chair
Salem Planning Board